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HUMAN RIGHTS COMMITTEE

Fifty-sixth session

SUMMARY RECORD OF THE 1500th MEETING

Held at Headquarters, New York,
on Thursday, 4 April 1996, at 10 a.m.

Chairman: Mr. AGUILAR

later: Mr. EL-SHAFEI
(Vice-Chairman)

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The meeting was called to order at 10.20 a.m.

ORGANIZATIONAL AND OTHER MATTERS

1. Mr. TISTOUNET (Secretary of the Committee) informed the Committee that periodic reports had also been received from Portugal, Bolivia and France, as the report from Mauritius had already been considered, that left seventeen reports remaining to be considered.

2. He also informed the Committee that Switzerland had withdrawn its reservations to article 20 of the Covenant.

3. The CHAIRMAN said that at its next session the Committee would consider the continuation of Nigeria's initial report, the initial reports of Brazil and Switzerland and the third reports of Peru and Afghanistan assuming the latter was ready, which seemed unlikely, with Denmark and India in reserve. At its October session, the tentative list would include an additional report from Hong Kong, the initial report of Georgia, the third periodic reports of Cyprus, Denmark and India, and the fourth periodic report of Germany, with Gabon and Iceland in reserve.

4. The CHAIRMAN, replying to questions from Mr. BRUNI CELLI, recalled that the Committee had decided the previous November to consider only four reports at the current session and in July, and to spend correspondingly more time on communications. The reason for considering the third report from Cyprus, even though the Committee had just considered a report from that country, was that it was the oldest of the available third reports.

5. Mr. POCAR suggested that the initial report of Gabon, which had been due in 1984, was more urgent than either that of Cyprus or Denmark and ought to be considered in July or October, instead of being kept in reserve.

6. The CHAIRMAN explained that the report from Gabon had to be translated, and that that might take some time.

7. Ms. EVATT agreed that the report from Gabon should be considered in October.

8. Mr. POCAR suggested that it was surely more urgent for the Committee to consider the report of Gabon than that of India, which had been due in 1992 and had arrived in November 1995, after the report of Gabon.

9. The CHAIRMAN suggested that Gabon could be placed in reserve instead of India at the July session, and scheduled for consideration in place of India at the October session.

10. It was so decided.

Methods of work of the Committee under article 40 of the Covenant (continued) (CCPR/56/WORKMET/2)

Paragraphs 10 and 11 (follow-up to activities under article 40 of the Covenant

11. Paragraphs 10 and 11 were adopted.

Paragraph 12 (General Comments)

12. Ms. EVATT suggested that as part of the Committee's response to the World Conference on Human Rights and the Fourth World Conference on Women, higher priority should be given to the Committee's comment on article 3.

13. Mr. LALLAH agreed, saying that the General Comment on article 3 had been one of the earliest. Much was going on in the area of equal rights and it was important for the Committee not to be overtaken by events. It would be useful for other committees to be able to benefit from the fruits of the Committee's experience both under the Optional Protocol and with respect to the examination of reports.

14. Mr. POCAR agreed that the Committee should update its General Comments on article 3, noting that the Committee should contribute to the development of ideas in that field. There were reasons for considering that articles 21 and 22 should be treated separately, since article 22, dealing with freedom of association, had a number of implications which article 21 did not have, and vice versa. The appropriate order of priority, in his view, was 3, 2 12, 21 and 22.

15. Paragraph 12, as orally amended, was adopted.

16. Mr. ANDO, speaking as Chairman/Rapporteur of the Working Group on Article 40 of the Covenant, noted that responses received from States parties in reply to Concluding Observations had given rise to some diversity of views within the Committee. Since the Committee was hardly in a position to respond to every response, it had been suggested that a State's response could be the subject of a note from the Chairman. However, the Working Group felt that it would be best to continue the current practice of acknowledging such responses in the Committee's Annual Report but under a separate heading for added emphasis. States might also be informed that their comments would eventually be taken into account when the Committee considered their next periodic report.

17. Mr. EL-SHAFEI, Vice-Chairman, took the Chair.

18. Mr. BUERGENTHAL said that he had some doubts regarding the last sentence of the paragraph. The Committee should not commit itself in advance to responding in a particular way to comments from States parties.

19. Ms. EVATT agreed that the Committee should not commit itself to any particular course of action. In any case, a State party's response should be studied as soon as possible by the country Rapporteur or by the Working Group on article 40, who should then submit a specific proposal as to how the Committee should respond.

20. Mr. KLEIN said that the receipt of the State party's reply must be acknowledged and its comments must be published. Apart from that, the Committee should retain the greatest possible flexibility and should deal with each case on its own merits. He agreed that the Working Group should begin its consideration of a State party's response as soon as possible after it was received.

21. Mr. POCAR said that the comments of States parties on the Committee's observations were very much part of the dialogue between the two, and of the reporting process. The Working Group on article 40 should consider the State party's response as soon as practically possible and make a recommendation to the Committee. In some cases, a special meeting might be scheduled between the Committee and the State party.

22. Mr. BUERGENTHAL suggested that the final sentence should be reworded to the effect that States should also be informed that their comments would be addressed by the Committee as appropriate, and in due course, after hearing the report of the Working Group on article 40.

23. Mr. BÁN suggested that the last sentence should be reworded to the effect that States parties' comments would be transmitted to the Working Group on article 40 convened before the next session of the Committee, and that the Working Group would submit a proposal to the plenary as to what the Committee's response should be.

24. Ms. EVATT said that it would not be appropriate to tell States parties that their comments would be submitted to the Working Group.

25. Mr. KLEIN said that in any case, the State party should be given an answer, which might be, for example, that its comments would published in the Committee's annual report.

26. Mr. LALLAH suggested that the final sentence should be replaced with something along the lines of what Mr. Klein had suggested. The greatest possible flexibility should be retained, since the way in which the Committee responded would depend on the content and timing of the State party's comments.

27. Mr. POCAR said that it would not be appropriate to publish the content of States parties' comments in the Committee's annual report. The report would acknowledge receipt of the comments, and the content could be issued as a separate document.

28. Mr. KLEIN said that the State party's comments could be published as an annex to the annual report. Also, if it was discovered that the Committee's observations had contained factually incorrect information, the Committee should consider itself under an obligation to rectify the error.

29. Ms. EVATT said that if it was discovered that the Committee's observations had contained factual error, the Working Group's recommendation to the Committee should include a proposal for an appropriate passage to be included in the annual report, rectifying the error. While it should not contain the full text of the State party's comments, the annual report should include a statement from

the Committee which would incorporate the relevant parts of the State party's comments.

30. Mr. BRUNI CELLI recalled that States parties' comments were for the use of the Committee itself; making them public would tend to distort the reporting process, and he considered that it would be wise to exercise caution.

31. The CHAIRMAN suggested that the meeting should be suspended for a short while to enable a new final sentence to be drafted.

The meeting was suspended at 11.30 a.m. and resumed at 11.45 a.m.

32. Mr. TISTOUNET (Secretary of the Committee) said that the final sentence of paragraph 13 had been redrafted as follows: "At the same time, the States parties' comments should be transmitted as soon as possible to the Working Group on article 40 which should suggest to the plenary what appropriate action the Committee should take with regard to the comments."

33. Paragraph 13, as amended, was adopted.

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTIETH SESSION

(a) ANNUAL REPORT SUBMITTED BY THE HUMAN RIGHTS COMMITTEE UNDER ARTICLE 45 OF THE COVENANT.

(b) EFFECTIVE IMPLEMENTATION OF UNITED NATIONS INSTRUMENTS ON HUMAN RIGHTS AND EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO SUCH INSTRUMENTS (A/50/505)

34. The CHAIRMAN drew the Committee's attention to the report of the sixth meeting of persons chairing the human rights treaty bodies (A/50/505), in particular part III, Review of developments relating to the work of the treaty bodies, and part IV, Suggestions and recommendations. He invited the Committee to take note of the document.

35. Mr. KLEIN asked how the participation of non-governmental organizations in the work of treaty bodies would be affected by the recommendations.

36. The CHAIRMAN said that their status would not be changed; the aim was to recognize their work and to encourage their participation.

37. Mr. PRADO VALLEJO asked for further information on the procedure developed by the Committee on the Elimination of Racial Discrimination (CERD) to encourage States parties to comply with their reporting obligations.

38. The CHAIRMAN said that the approach taken by CERD was not very different from that followed by the Human Rights Committee, in that it urged Governments to fulfil their reporting obligations. The situation had changed in respect of CERD simply in that more reports had been received than in the past.

39. Ms. EVATT noted that several of the recommendations dealt with matters already under consideration by the Committee. With respect to involvement in

preparations for world conferences, she wondered whether the Committee was in a position to assume further obligations. With regard to the Habitat II conference, she asked whether the Committee would participate by drawing attention to the relevant provisions of the Covenant.

40. She fully endorsed the comments on the lack of resources and on the development of databases. With regard to the recommendations relating to the Committee on the Elimination of Discrimination against Women and the integration of gender perspectives into United Nations human rights activities, she asked whether there had been any follow-up with the Committee pursuant to the Beijing Conference, and suggested that a member of the Committee could serve as a focal point for liaison with the Division for the Advancement of Women.

41. Mr. LALLAH asked for further information on the manner in which CERD had sought to encourage States parties to comply with their reporting obligations noting that the Committee on Economic, Social and Cultural Rights had recently begun to examine implementation of the International Covenant on Economic, Social and Cultural Rights in States parties that had submitted no reports to it, he said that more information on that procedure would also be welcome.

42. Mr. TISTOUNET (Secretary of the Committee) said that the practice followed by human rights bodies with respect to non-governmental organizations varied. The Committee on the Rights of the Child allowed non-governmental organizations to participate in pre-sessional working groups, at which they could take part in a dialogue with members of the working group in respect of States whose reports were due to be considered. The Committee on Economic, Social and Cultural Rights went somewhat further in that it allowed non-governmental organizations to present positions in plenary meetings, although not on a systematic basis, and they did not take part in the dialogue with States parties.

43. With regard to overdue reports, the Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights drew up a list which was then sent to States, informing them that the situation in their respective countries would be considered, whether or not a report had been submitted. At first the procedure had not been too successful, but more responses had been received recently. The matter had been a particular problem for CERD, as the oldest human rights treaty body, in that some reports had been outstanding for more than 20 years.

44. Regarding cooperation between the Centre for Human Rights and the Division for the Advancement of Women, some statistical information had been received from the Division relating to reports of States parties, but it was hoped to obtain more appropriate information in terms of the situation of women under each article of the Covenant. With respect to the suggestion for a member to act as a focal point, there had been an earlier decision to establish such a mechanism, which could certainly be revived.

45. Ms. EVATT said that the Division for the Advancement of Women intended to provide more material to Committee members, and that the information would be targeted on areas of concern to the Committee.

46. Mr. POCAR said, with regard to participation by non-governmental organizations, that account must be taken of the legal basis of the organ concerned. While the Committee on Economic, Social and Cultural Rights might well allow fairly full participation, it should be noted that it was not a treaty body, but a subsidiary of the Economic and Social Council, in which connection all non-governmental organizations in consultative status with the Council would be entitled to take part in its work.

47. Regarding the proposal to establish focal points, that procedure had never proved successful in the past. Lastly, he doubted whether the approach taken by the Committee on the Elimination of Racial Discrimination to encourage compliance with reporting obligations was of great relevance to the Human Rights Committee.

48. Ms. EVATT said that she would be happy to take on the role of liaising with the Division for the Advancement of Women and the Committee on the Elimination of Discrimination against Women.

49. Mr. ANDO recalled that the Committee had drafted short notes on the results of each session which it had subsequently circulated to other treaty bodies. He recalled having received feedback in response to those notes during his chairmanship of the Committee. The Committee had just adopted a decision on its working methods, so he saw no need to reopen that debate during the current session.

50. Mr. TISTOUNET (Secretary of the Committee) said that, with reference to the forthcoming Habitat II conference, the Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights had expressed their desire to become actively involved. The appropriate status of human rights committees and treaty bodies at such conferences had yet to be determined; at previous conferences, representatives of such bodies had experienced difficulty in advancing their committees' views or participating fully in the debate. The Secretariat had requested special status for treaty bodies at such events, but the issue was still pending.

51. He confirmed Mr. Ando's recollection that human rights bodies had exchanged summaries of their proceedings in the past. The problem was how much time should be devoted to the consideration of any such material.

52. Mrs. CHANET endorsed the view that, since the Committee had just adopted new working methods, there was no need to reopen the issue. She also supported the idea that contacts with other human rights treaty bodies should be actively pursued.

53. Mr. KLEIN asked for clarification as to how various treaty bodies had considered the situation in a particular country if the State party involved had declined to submit a report beforehand.

54. Mr. TISTOUNET (Secretary of the Committee) explained that the Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights would assess the extent to which a report was overdue, and would then invite the State party to submit a report or at least send a

delegation to take part in a discussion. During their respective sessions, they would act on the basis of whatever information had been submitted. He noted that much of the material considered by such committees originated from non-governmental organizations and specialized agencies of the United Nations. Using whatever information they had before them they would then try to engage in a dialogue with the State party's representative.

55. The CHAIRMAN said he took it that the Committee wished to take note of the report of persons chairing the human rights treaty bodies.

56. It was so decided.

GENERAL COMMENTS OF THE COMMITTEE (continued)

Draft general comment on article 25 of the Covenant (continued) (CCPR/C/56/CRP.1)

57. Ms. EVATT, speaking on behalf of the Chairman/Rapporteur of the Working Group on Article 40 of the Covenant, introduced the new draft general comment, which reflected discussions on article 25 of the Covenant that had been going on since March 1995. She had tried to reflect the views of all members but had not had an opportunity to revise the text in line with comments that had been made during the current session.

58. Paragraphs 1, 2, 3 and 3 (b) were introductory in nature. Paragraphs 4 to 8 dealt in general terms with issues arising from article 25, paragraph (a) of the Covenant. Paragraphs 9 to 20 dealt with issues arising from article 25, paragraph (b), and paragraphs 21 and 22 addressed questions stemming from article 25 paragraph (c). Paragraphs 23 and 24 dealt with topics arising from articles 19, 21 and 22 of the Covenant insofar as they had a bearing on the provisions of article 25, and paragraph 25 addressed similar questions raised by article 5 of the Covenant.

Paragraph 1

59. Mr. BRUNI CELLI said that, in the second sentence of the Spanish text, the phrase "de otro tipo" should be replaced with the phrase "de otro carácter" so as to conform with the language used in article 2, paragraph 2, of the Covenant.

60. Ms. MEDINA QUIROGA said that she also wished to make several minor drafting changes to the Spanish text, and she would therefore confer with Ms. Evatt.

61. Mr. POCAR asked that the final sentence should be deleted since the Committee had already stated elsewhere its reasons for making general comments.

62. Paragraph 1, as orally amended, was adopted.

Paragraph 2

63. Ms. EVATT proposed that the redundant words "these rights, including" should be deleted from the second sentence.

64. Mr. BÁN said that, traditionally, the Committee did not find violations of individual rights under article 1 of the Covenant. He therefore tentatively suggested the deletion of the final sentence of the paragraph.

65. Mrs. CHANET said that the phrase "peoples as such" was unclear. It would be preferable to adhere to the exact wording of the Covenant, which simply spoke of "peoples".

66. Mr. POCAR said that article 1 of the Covenant implied that the right of self-determination embraced the right to choose a political system. The two rights were not distinct; the former subsumed the latter.

67. Ms. EVATT, commenting on Mr. Pocar's remark, proposed a closer adherence to the wording of the Covenant by placing a comma after "self-determination" in the first sentence and continuing with the words "by virtue of which they freely determine their political status". She did not share Mr. Bán's concern that article 1 could not be construed as referring to individual rights. The issue was clearly one of individual rights in the context of article 25.

68. Mr. KLEIN proposed the insertion of a full stop after "self-determination" in the first sentence. The next sentence would then read "Peoples have the right to pursue their economic, social and cultural development, including the right to choose their political status".

69. Mr. BHAGWATI wondered whether it might not be simpler to quote article 1 directly, thereby removing the phrase "form of their constitution or government".

70. Mr. LALLAH reminded the Committee that the draft general comment related to article 25 of the Covenant, and therefore it should focus on the implications that other articles had for the provisions of that particular article.

The meeting rose at 1 p.m.